

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON – PORTLAND DIVISION

JOSE GUTIERREZ, an individual

Plaintiff,

vs.

ST. PAUL FIRE AND MARINE INSURANCE
COMPANY, a Connecticut corporation, and
CHAZNLIN CONSTRUCTION, INC., a Montana
corporation,

Defendants.

No.

**DEFENDANT ST. PAUL FIRE
AND MARINE INSURANCE
COMPANY’S NOTICE OF
REMOVAL PURSUANT TO 28
U.S.C. § 1441(a)**

TO: The Clerk of the United States District Court for the District of Oregon –
Portland Division.

AND TO: Plaintiff, Jose Gutierrez, and his counsel of record, Gregory Kafoury, Mark
McDougal, and Jason Kafoury.

Please take notice that Defendant ST. PAUL FIRE AND MARINE INSURANCE
COMPANY (hereinafter “St. Paul”) hereby removes to this Court the action as described
below:

I. THE SUBJECT ACTION

On January 8, 2016, Plaintiff filed a Complaint naming St. Paul as a Defendant in the
Multnomah County Circuit Court of the State of Oregon under Cause No. 16-CV-00513. The

1 complaint alleges breach of contract stemming from a settlement agreement under an insurance
2 policy issued to Defendant Chaznline Construction, Inc. (hereinafter “Chaznline”). A true and
3 correct copy of the Complaint is attached hereto as **Exhibit 1**. This action is based on an
4 insurance settlement dispute. Plaintiff alleges breach of contract against St. Paul based on
5 settlement of claims relating to events that transpired on December 29, 2011 in Williams
6 County, North Dakota.

7 The Complaint alleges that the Plaintiff is an individual and that St. Paul, acting on
8 behalf of Chaznline, made a settlement offer to Plaintiff in Portland, Oregon. Further, this offer
9 of settlement was allegedly accepted by Plaintiff in Portland, Oregon. **Ex. 1 ¶ 2.**

10 The Complaint further alleges that Defendant St. Paul is a corporation domiciled in the
11 State of Connecticut. **Ex. 1 ¶ 1.** The Complaint in-turn claims that St. Paul conducts regular,
12 sustained business in Oregon. **Ex. 1 ¶ 1.**

13 **II. DIVERSITY OF CITIZENSHIP**

14 On information and belief, the Plaintiff is a citizen of the State of Oregon.

15 For purposes of diversity under 28 U.S.C. § 1332, St. Paul is a foreign insurance
16 company organized under the laws of the State of Connecticut and with a principal place of
17 business in the State of Connecticut. Defendant Chaznline is a corporation organized under the
18 laws of the State of Montana and with a principal place of business in the State of Montana

19 **III. AMOUNT IN CONTROVERSY**

20 Plaintiff in his Complaint seeks judgment in the amount of \$1,350,000. **Ex 1 ¶ 3.**

21 All damages claimed by Plaintiff are in controversy in this action based upon alleged
22 breach of contract.

1 Based on the claims for damages set forth above, the amount in controversy clearly
2 exceeds the \$75,000.00 jurisdictional threshold.

3 IV. JURISDICTION

4 For purposes of determining jurisdiction under 28 U.S.C. § 1332, Defendant St. Paul is
5 a citizen of the State of Connecticut. Defendant Chaznline is a citizen of the State of Montana.
6 Plaintiff is a citizen of the State of Oregon. As a result, diversity is complete.

7 The amount in controversy exceeds \$75,000.00 excluding interest and costs.

8 This Court, therefore, has original jurisdiction over this controversy under 28 U.S.C. §
9 1332 and 28 U.S.C. § 1441.

10 V. TIMELINESS

11 Plaintiff filed the original Complaint on January 8, 2016. Defendant filed this Notice of
12 Removal on January 26, 2016. Accordingly, Defendant is entitled to remove this action and
13 this Notice of Removal is timely pursuant to and in accordance with 28 U.S.C. § 1446.

14 VI. COPIES OF PROCESS, PLEADINGS, ORDERS, AND MOTIONS IN STATE 15 COURT PROCEEDINGS

16 In accordance with 28 U.S.C. § 1446, attached to this notice as **Exhibits 1** is a true and
17 correct copy of the pleadings and documents in the Circuit Court of the State of Oregon docket
18 as of the date of this filing. These documents are:

19 **Exhibit 1:** Plaintiff's Complaint

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1 DATED this 26th day of January, 2016.

2 LETHER & ASSOCIATES, PLLC

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4 s/ Eric Neal

5 Thomas Lether, OSB #101708

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13 *Attorneys for Defendant*

14 *St. Paul Fire and Marine Insurance Company*

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury under the laws of the State of Oregon that, on this date, I caused to be served in the manner noted below, a true and correct copy of the foregoing on the parties mentioned below as indicated below:

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☒ ECF ☒ Via Email ☐ US Mail ☐ Legal Messenger

DATED this 26th day of January, 2016.

s/ Hugh Engelhoff
Hugh Engelhoff, Paralegal